

**UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

NORFOLK COUNTY RETIREMENT SYSTEM,  
individually and on behalf of all others similarly  
situated,

*Plaintiff,*

v.

COMMUNITY HEALTH SYSTEMS, INC.,  
WAYNE T. SMITH and W. LARRY CASH,

*Defendants.*

THIS DOCUMENT RELATES TO ALL  
ACTIONS

CONSOLIDATED  
CIVIL ACTION NO.: 11-cv-0433

CLASS ACTION

JUDGE ALETA A. TRAUGER  
MAG. JUDGE JOE B. BROWN

JURY TRIAL DEMANDED

**PLAINTIFF'S NOTICE OF SUPPLEMENTAL AUTHORITY**

Lead Plaintiff, the New York City Employee Retirement System, the Teachers' Retirement System of the City of New York, the New York City Teachers' Variable Annuity Program, the New York City Police Pension Fund, and the New York City Fire Department Pension Fund (collectively, the "NYC Funds" or "Lead Plaintiff"), respectfully submits as supplemental authority in support of Lead Plaintiffs Opposition to the Motion to Dismiss, the recent decision in *Glickenhau & Co. v. Household International, Inc.*, No. 13-3532, 2015 U.S. Dist. App. 8424 (7th Cir. May 21, 2015). The decision is attached as Exhibit A.

The Court in *Household International* contrasted alleging loss causation as a matter of pleading with proving it at trial. There, the initial disclosure similarly arose out of litigation. The Seventh Circuit explained that, for pleading, *Dura Pharm., Inc. v. Broudo*, 336, 342 (2005), merely requires that "plaintiff must ... allege that the stock price declined once the truth [about prior representations] was revealed." 2015 U.S. Dist. App. 8424, at \*24; *id.* at \*4 (noting stock declined beginning with filing of lawsuit exposing Household's predatory lending practices).

*See also Sapsson v. Health Mgmt. Assoc.*, 14-12838, 2015 U.S. App. LEXIS 7731, at \*26 (11th Cir. May 11, 2015)<sup>1</sup> (Martin J. concurring) (the Supreme Court’s “standard for pleading loss causation was a ‘simple test’” -- the “Supreme Court suggested that the complaint would have been adequate had it stated to Dura’s stock price fell after the alleged misrepresentations had been exposed.”) (citing *Dura* at 346-47).

The Seventh Circuit explained that at trial the question of loss causation is an intensely factual inquiry where plaintiff’s evidence to the jury addresses the extent that stock declines were due to corrective disclosures or to firm-specific non-fraud events. 2015 U.S. Dist. App. 8424, at \*30-32. “[I]n order to prove loss causation, plaintiffs in securities fraud cases need to isolate the extent to which a decline in stock price is due to fraud-related disclosures and not other factors.” *Household Int’l*, 2015 U.S. Dist. App. 8424, at \*25-26 (citing *Hubbard v Bank Atl. Bancorp. Inc.*, 688 F.3d 713, 725-26 (11th Cir. 2012)); and *Miller v. Asensio Co., Inc.*, 364 F.3d 223, 232 (4th Cir. 2004)).

Dated: May 28, 2015

**LOWEY DANNENBERG COHEN  
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/s/Barbara J. Hart

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<sup>1</sup> Submitted as Dkt. No. 139-2.

## **CERTIFICATE OF SERVICE**

I hereby certify that on May 28, 2015, a copy of Lead Plaintiff's Notice of Supplemental Authority, was filed with the Clerk of the Court using the CM/ECF system, which will automatically serve a copy of same upon all counsel of record, as identified in the following chart:

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Dated: May 28, 2015

/s/ Scott V. Papp